

Director of National Intelligence Freedom of Information Act Annual Report Fiscal Year 2005

The goal of the ODNI's Freedom of Information Act/Privacy Act office is to keep the public better informed about the ODNI's efforts to ensure U.S. security through the release of as much information as possible. But because of the ODNI's need to comply with the national security laws of the United States, some documents, or portions thereof, cannot be released to the public. Nonetheless, a substantial amount of ODNI information has been or can be released following review.

The Freedom of Information Act (FOIA), found in Section 552 of Title 5 of the United States Code, generally provides that any person has a right, enforceable in court, to request access to federal agency records. FOIA requires federal agencies to produce such records when requested, provided that the records (or portions thereof) are not exempt from disclosure under limited national security exemptions.

The Privacy Act (PA), found in Section 552a of Title 5 of the United States code, balances the government's need to collect, maintain, use, and disclose personal information about individuals with the rights of those individuals to be protected against unwarranted invasions of privacy. The PA provides the right for an individual to obtain copies of records maintained on him/her if such information is not exempt from release under the provisions of the law.

I. Basic Information Regarding Report

A. Name, title, address, and telephone number of person to be contacted with questions about the report.

Mr. John F. Hackett

Director, Information Management Office

Office of the Director of National Intelligence

Washington D.C. 20511

(703) 482-1707

B. Electronic address for report on the World Wide Web.

An electronic copy of this report will be posted to www.dni.gov

C. How to obtain a copy of the report in paper form.

Write to the above address.

II. How to Make a FOIA Request

Submit a written request to the mail address above. Transmission via facsimile also is acceptable. (703) 482-2144.

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

The mailing address in section I. A., above, is the single, central office which receives all FOIA requests for the Director of National Intelligence. However, FOIA requests received by components of the ODNI are referred to Mr. Hackett.

B. Brief description of the agency's response-time ranges.

Not Applicable.

C. Brief description of why some requests are not granted.

The only component of the ODNI to receive FOIA Requests for FY 2005 was the ONCIX. The response time range for these requests was 6-17 days.

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

ODNI: Office of the Director of National Intelligence.

ONCIX: Office of the National Counterintelligence Executive.

B. Basic terms, expressed in common terminology.

1. FOIA/PA Request – Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request – a request to a federal agency for access to records under the Freedom of Information Act.
3. Appeal – a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal – a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track Processing – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited Processing – an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant – an agency decision to disclose all records in full in response to a FOIA request.
10. Partial Grant – an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.
11. Denial – an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time Limits – the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a

“perfected” FOIA request).

13. “Perfected” Request – a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 Statute – a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average Number – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

List of Exemption 3 Statutes relied on by agency during current fiscal year.

Not Applicable

1. Brief description of type(s) of information withheld under each statute.

N/A

2. Statement of whether a court has upheld the use of each statute. If so, cite example.

N/A

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests. 7

1. Requests pending as of end of preceding year: 0

2. Requests received during current fiscal year: 7

3. Requests processed during current fiscal year: 7

4. Requests pending as of end of current fiscal year: 0

B. Disposition of initial requests. *Not Applicable*

1. Number of total grants: *N/A*

2. Number of partial grants: *N/A*

3. Number of denials: *N/A*

Number of times each FOIA exemption used (counting each exemption once per request):

(1) Exemption 1: *N/A*

(2) Exemption 2: *N/A*

(3) Exemption 3: *N/A*

(4) Exemption 4: *N/A*

(5) Exemption 5: *N/A*

(6) Exemption 6: *N/A*

(7) Exemption 7(a): *N/A*

(8) Exemption 7(b): *N/A*

(9) Exemption 7(c): *N/A*

(10) Exemption 7(d): *N/A*

(11) Exemption 7(e): *N/A*

(12) Exemption 7(f): *N/A*

(13) Exemption 8: *N/A*

(14) Exemption 9: *N/A*

4. Other reasons for nondisclosure (total): 7

a. no records: 6

b. referrals: *N/A*

c. request withdrawn: 1

d. fee-related reason: *N/A*

e. records not reasonably described: *N/A*

f. not a proper FOIA request for some other reason: *N/A*

g. not an agency record: *N/A*

h. duplicate request: *N/A*

i. other: *N/A*

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals. 3

1. Number of appeals received during fiscal year: 3

2. Number of appeals processed during fiscal year: 3

B. Disposition of appeals. *Not Applicable.*

1. Number completely upheld: *N/A*

2. Number partially reversed: *N/A*

3. Number completely reversed: *N/A*

Number of times each FOIA exemption used (counting each exemption once per appeal):

(1) Exemption 1: *N/A*

(2) Exemption 2: *N/A*

(3) Exemption 3: *N/A*

(4) Exemption 4: *N/A*

(5) Exemption 5: *N/A*

(6) Exemption 6: *N/A*

(7) Exemption 7(a): *N/A*

(8) Exemption 7(b): *N/A*

(9) Exemption 7(c): *N/A*

(10) Exemption 7(d): *N/A*

(11) Exemption 7(e): *N/A*

(12) Exemption 7(f): *N/A*

(13) Exemption 8: *N/A*

(14) Exemption 9: *N/A*

4. Other reasons for nondisclosure (total):3

a. no records: *N/A*

b. referrals: *N/A*

c. request withdrawn: *N/A*

d. fee-related reason: *N/A*

e. records not reasonably described: *N/A*

f. not a proper FOIA request for some other reason: 3

g. not an agency record: *N/A*

h. duplicate request: *N/A*

i. other: *N/A*

VII. Compliance With Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year.

1. Simple requests. *Not Applicable.*

a. number of requests processed: 7

b. median number of days to process: *11 days*

2. Complex request. *Not Applicable.*

a. number of requests processed: *N/A*

b. median number of days to process: *N/A*

3. Requests accorded expedited processing. *Not Applicable.*

a. number of requests processed: *N/A*

b. median number of days to process: *N/A*

B. Status of pending requests.

1. Requests pending as of end of current fiscal year: 0

2. Median number of days that such requests were pending as of that date:

N/A

VIII. Comparisons With Previous Year(s)

The ODNI came into existence on April 21, 2005. Therefore, there are no previous years for comparison. However, ONCIX did process FOIA requests in FY 2004.

A. Comparison of number of requests received: 2004:1

B. Comparison of number of requests processed: 2004:1

C. Comparison of median numbers of days requests were pending as of end of fiscal year: N/A

D. Other statistics significant to agency: *Six of the requests were for expedited processing; expedited processing was not granted for any of the requests.*

IX. Costs/FOIA Staffing

A. Staffing levels.

The ODNI is in the processing of hiring staff for its FOIA office.

1. Number of full-time FOIA personnel: 0

2. Number of personnel with part-time or occasional FOIA duties (estimated FTE): 0.02

3. Total estimated number of personnel (FTE): 0.02

B. Total estimated costs (including staff and all resources).

1. FOIA processing (including appeals): \$5,850, *approximately.*

2. Litigation-related activities: 0

3. Total estimated costs: \$5,850, *approximately.*

C. Statement of additional resources needed for FOIA compliance (optional)

To be determined.

X. Fees

A. Total amount of fees collected by agency for processing requests: \$0.00

B. Percentage of total costs: N/A

XI. FOIA Regulations (Including Fee Schedule)

The ODNI was established on April 21, 2005, and is preparing its FOIA Regulations to be published expeditiously in the Federal Register.